

Filed for intro on 04/08/98

HOUSE BILL 3419
By Caldwell

AN ACT to establish the Office of County Attorney for Anderson County, Tennessee, to provide for the authority, powers and duties of the office, to fix the compensation therefor, and to repeal Chapter 608 of the Private Acts of 1947, as amended by Chapter 258 of the Private Acts of 1955, Chapter 141 of the Private Acts of 1965, Chapter 75 of the Private Acts of 1973, Chapter 295 of the Private Acts of 1978, and any other act amendatory thereto.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. There is created in Anderson County the office of County Attorney. The county attorney shall be a citizen and resident of Anderson County, Tennessee, shall possess a license to practice law in the state of Tennessee, and shall be admitted to practice in the United States District Court for the Eastern District of Tennessee and the United States Court of Appeals for the Sixth Circuit.

SECTION 2. The compensation of the county attorney shall be twelve thousand dollars (\$12,000) a year, payable in equal installments on the same dates as county general fund employees are paid. The county attorney is eligible to participate in the Tennessee Consolidated Retirement System and all employee benefit plans, including but not limited to health insurance and life insurance, offered to its employees by the county.

SECTION 3. The duties of the county attorney shall include, but are not limited to, the following:

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(1) To give and render legal advice to all county officials, and to members of the board of county commissioners in matters relating to their official work and duties.

(2) To meet with the board of county commissioners at its regular and special meetings.

(3) To give legal advice to legally and duly appointed committees of the board of county commissioners, and provide a response within seven (7) days, unless otherwise directed.

(4) To represent the county in all litigation, whether the county is suing or being sued, in all the courts of this state.

(5) To represent the county in all litigation, whether the county is suing or being sued, in all federal courts within the Sixth Circuit.

(6) To represent the county in all state and federal administrative proceedings.

(7) To provide like representation in state courts, federal courts, and administrative proceedings, to county officials involved as parties in litigation in their official capacities.

(8) To act as delinquent tax attorney upon selection as such by the trustee and approval as such by the county executive, as otherwise provided by general law.

(9) To draw up or approve as to form all contracts, leases, deeds, or other legal instruments to which the county is a party, when necessary or convenient to do so.

(10) To render any necessary owner's opinions with regard to public finance obligations such as notes and bonds.

(11) To draft policies, rules and regulations upon the request of county officials, committees or tribunals empowered to consider and/or adopt the same.

(12) To represent the county executive in all fee petitions brought by the officials of the various fee offices.

(13) With regard to county boards exercising quasi-judicial authority, including, but not by way of limitation, the board of zoning appeals, the civil service board, and the beer board, to serve as legal counsel for such board, and represent such board in any subsequent judicial review of its actions.

(14) To provide annual opinions to the county auditors regarding pending or threatened claims or litigation, in accordance with standards promulgated by the American Bar Association.

(15) In general, to act as the general counsel for the county.

SECTION 4. Nothing contained herein shall prevent any official, agency, instrumentality or department of the county, which has the power to employ its own counsel by general law, from employing its own counsel, if such employment complies with all budget and finance laws.

SECTION 5. In the event of a conflict of interest between officials, boards, committees, or other agencies or instrumentalities of the county, the county attorney shall represent the board of county commissioners if otherwise qualified and permitted to do so, except in the case of fee petitions brought by the fee offices, which shall be handled in the manner set forth in Section 3, subsection (12).

SECTION 6. No county official shall employ any attorney other than the county attorney to represent the county or such official unless such action is authorized by the general law and is in compliance with all budget laws; otherwise, such official shall be personally responsible for the expense of the employment of such attorney.

SECTION 7. The board of county commissioners may employ special counsel when, in its sole discretion, counsel other than the county attorney is needed.

SECTION 8. The county attorney may be chosen as special counsel, in which event, he or she shall receive such additional compensation as may be prescribed by the board of county commissioners.

SECTION 9. The county attorney shall have the same power as conferred by general law upon a district attorney general to file a suit to abate a nuisance and for the removal of any officer not subject to removal only by impeachment.

SECTION 10. The term of the office of county attorney shall be for four (4) years and until the successor is elected and qualified. The county attorney shall be elected by the voters of Anderson County at the 1998 regular August election, and every four (4) years thereafter. Any candidate for the office of county attorney shall provide proof to the election commission of his or her qualifications as required by this act before the candidate's name shall be placed on the ballot.

SECTION 11. (a) Nothing contained herein shall prevent the county attorney from engaging in the private practice of law.

(b) Any vacancy in the office of county attorney shall be filled in the manner prescribed by the general law.

SECTION 12. Nothing in this act shall be construed as having the effect of removing any incumbent from office or abridging the term of any official prior to the end of the term for which such official was elected.

SECTION 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 14. Chapter 608 of the Private Acts of 1947, as amended by Chapter 258 of the Private Acts of 1955, Chapter 141 of the Private Acts of 1965, Chapter 75 of the Private Acts of 1973, Chapter 295 of the Private Acts of 1978, and any other act amendatory thereto, is repealed.

SECTION 15. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Anderson County. Its approval or nonapproval shall be

proclaimed by the presiding officer of the county legislative body and certified to the secretary of state.

SECTION 16. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. This act shall become effective as provided in Section 15 in order to elect a county attorney at the 1998 regular August election to begin the initial term of office on September 1, 1998. For all other purposes, after this act is approved as provided in Section 15, it shall take effect September 1, 1998.